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UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT

Report of the Ad Hoc Working Group on Comparative Experiences with Privatization on its third session

held at the Palais des Nations, Geneva,
from 29 November to 3 December 1993

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INTRODUCTION

1. In accordance with the UNCTAD calendar of meetings, the third session of the Ad Hoc Working Group on Comparative Experiences with Privatization was held at the Palais des Nations, Geneva, from 29 November to 3 December 1993.

Opening statements

2. The **Deputy to the Secretary-General of UNCTAD** stated that the Working Group had attracted a great deal of interest on the part of Governments. Thus it had been possible to draw useful lessons and important insights in the privatization process, to see what worked and what did not work, and to assess the factors that could make a real difference in the design and implementation of privatization policies and programmes.

3. On the first of the two topics that were to be taken up for in-depth consideration, namely competition and the regulation of privatized monopolies, there was first and foremost the issue of competition. One of the main lessons learned from privatization experiences was that, while ownership often mattered, competition mattered even more. There was also the issue of economic regulation, which was of particular importance to protect consumer welfare. Other important aspects included promoting efficiency through, inter alia, the promotion of competition in contestable sectors of public utilities, and encouraging innovation and productivity growth. In addition, there was the role of competition policy in safeguarding competition against market failures and in dealing with any regulatory failures. Depending on the industry - and telecommunications was a good example - competition, competition policy and economic regulation could all play a role in regulating the industry for efficiency. The appropriate balance between competition and economic regulation would depend on the nature of the industry and might also evolve as a function of technological progress.

4. The privatization of public utilities went beyond sales or non-divestiture options. Owing to mounting pressures on the provision of infrastructure for such utilities, as well as to budgetary constraints, Governments were increasingly looking to the private sector for help in financing the development of infrastructure. Infrastructure financing was in fact one of the major development issues of the 1990s. Economic regulation, which was needed to provide a guarantee and a degree of predictability, could also impose a cost for the private sector developer-operator. Thus, such regulation would need to protect consumer welfare, while addressing the issues of incentives for the private sector partners, economic efficiency and competition in the light of technological progress.

5. As regards the second topic - i.e. social impact and socially related support measures - the issues involved could cover a broad field, relating to the social balance sheet of privatization. There was a need to address the employment effects, the effects on the provision of social infrastructure or services and the social benefits and costs arising from the privatization of public utilities. In view of the time factor, the Working Group might wish to focus on two particular sets of issues, namely the design and financing of social compensation and social safety-net measures, and job-creation measures to provide alternative employment opportunities for retrenched workers, including retraining programmes, job counselling and placement services,

measures to enhance labour mobility and support for the promotion of entrepreneurship and of the development of micro, small and medium-sized enterprises. The extent to which Governments could effectively address these issues would have an important bearing on the success of privatization, in its implementation and post-privatization phases.

6. The **Chief of the Privatization and Enterprise Development Unit** referred to the two main papers before the Working Group including the cross-country analysis and the issues paper prepared by the secretariat for the in-depth consideration of competition and the regulation of privatized monopolies and the social impact and socially related support measures. He thanked Governments for the additional country contributions and other materials sent to the secretariat since the second session. The secretariat had updated the Directory of national focal points dealing with privatization, which now contained information on some 65 focal points for privatization.

7. He also thanked the experts who had kindly agreed to act as panellists at the third session. He was pleased that there would be experts from the World Bank and the ILO on one of the panels.

Chapter I

REVIEW OF THE COUNTRY PRESENTATIONS IN THE LIGHT OF A CROSS-COUNTRY ANALYSIS BY THE SECRETARIAT ON THE DESIGN, IMPLEMENTATION AND RESULTS OF PRIVATIZATION PROGRAMMES

(Agenda item 3)

and

IN-DEPTH CONSIDERATION OF:
(i) COMPETITION AND THE REGULATION OF PRIVATIZED MONOPOLIES;
(ii) SOCIAL IMPACT AND SOCIALLY RELATED SUPPORT MEASURES

(Agenda item 4)

8. For its consideration of agenda item 3, the Ad Hoc Working Group had before it the following updated report by the UNCTAD secretariat:

> "Design, implementation and results of privatization programmes: a cross-country analysis of national experiences" (TD/B/WG.3/7/Rev.1).

9. In addition, the country presentations submitted to the secretariat were circulated to the Working Group in the miscellaneous documents series. (For the list of such presentations, see checklist of documents in annex III below).

10. For its consideration of agenda item 4, the Ad Hoc Working Group had before it an issues paper by the UNCTAD secretariat (TD/B/WG.3/11).

11. In the course of the third session, the Ad Hoc Working Group discussed these two agenda items in informal meetings. The Working Group also heard presentations by national experts participating in the session.

Action by the Ad Hoc Working Group

12. At its 7th (closing) meeting, on 3 December 1993, the Ad Hoc Working Group took note of the summary prepared by the UNCTAD secretariat of the main points made in the informal discussions on agenda item 4, and agreed to annex the summary to the report of the Working Group on its third session. (For the secretariat summary, see annex I below).

Chapter II

ORGANIZATIONAL MATTERS

A. Opening of the session

13. The third session of the Ad Hoc Working Group was opened on 29 November 1993 by Mr. Bror Wahlroos (Finland), Chairman of the Working Group.

B. Election of officers

(Agenda item 1)

14. At its 7th meeting, on 3 December 1993, the Ad Hoc Working Group elected Ms. Chunhachit Sungmai (Thailand) as a Vice-Chairman to replace Ms. Prapada Saranusit, who was unable to attend the session. Accordingly, the Bureau of the Ad Hoc Working Group at its third session was as follows:

Chairman:	Mr. Bror Wahlroos	(Finland)
Vice-Chairmen:	Ms. Taos Feroukhi	(Algeria)
	Ms. Carmen Silva	(Colombia)
	Mr. Thomas Janicki	(Germany)
	Ms. Urszula Calka-Jendroszczyk	(Poland)
	Ms. Chunhachit Sungmai	(Thailand)
Rapporteur:	Mr. Herbert Dzvimbo	(Zimbabwe)

C. Adoption of the agenda and organization of work

(Agenda item 2)

15. At its 6th (opening) meeting, on 29 November 1993, the Working Group adopted the provisional agenda for the third session as approved by the Group at its second session and circulated by the secretariat in TD/B/WG.3/10. The agenda for the third session therefore read as follows:

1. Election of officers

2. Adoption of the agenda and organization of work

3. Review of the country presentations in the light of a cross-country analysis by the secretariat on the design, implementation and results of privatization programmes

4. In-depth consideration of:

   (i) Competition and the regulation of privatized monopolies;

   (ii) Social impact and socially related support measures

5. Provisional agenda for the fourth session of the Ad Hoc Working Group

6. Other business

7. Adoption of the report of the Ad Hoc Working Group to the Board.

16. The Working Group also broadly endorsed the suggested organization of work set out in section III of TD/B/WG.3/10, subject to clarifications of detail made by the Chairman.

D. Provisional agenda for the fourth session of the Ad Hoc Working Group

(Agenda item 5)

17. At its 7th (closing) meeting, on 3 December 1993, the Ad Hoc Working Group approved the provisional agenda for its fourth session on the basis of TD/B/WG.3/L.6, as amended by the meeting. (For the provisional agenda as approved by the Working Group, see annex II below).

18. The Ad Hoc Working Group took note of the Chairman's proposal that, at its fourth session, it devote half a day to the consideration of the topic of privatization and the environment.

E. Adoption of the report of the Ad Hoc Working Group to the Board

(Agenda item 7)

19. At the same meeting, the Ad Hoc Working Group adopted the draft report on its third session (TD/B/WG.3/L.5), and authorized the Rapporteur to complete the final report as appropriate.

ANNEXES

Annex I

MAIN POINTS MADE IN THE INFORMAL DISCUSSIONS ON AGENDA ITEM 4

Summary prepared by the UNCTAD secretariat*

A. COMPETITION AND THE REGULATION OF PRIVATIZED MONOPOLIES

1. Competition

1. The promotion of competition is of central importance to the process of privatization. Competition is at least as important as regulation in the privatization of public utilities. For competition to work, market structures, pro-competition regulation and a liberal licensing policy are important. Thus, in order to promote competition in public utilities, contestable sectors should be separated from the "natural monopoly" grid or network, and the former exposed to competition. In some cases, where it is technically feasible, the grid may be split up as a way of facilitating comparisons in performance of the different licensees. Grid-based services may also be open to competition by licensing access to the grid to competitive suppliers. In certain industries, such as telecommunications, rival networks may also be licensed. To the extent that the organizational restructuring results in competitive market structures, competition and competition policy can play an important role in achieving economic efficiency, with regulation focusing on the grid-based services and licensing. Market structures can also be influenced by technological progress. Such progress in telecommunications, for example, is eroding network monopolies by facilitating the entry of new competitors.

2. At the same time, market liberalization, indispensable for the elimination of monopolies, may also be introduced. However, market liberalization may have to be introduced in an orderly and regulated manner, taking into account the specific conditions in the sector and in the international markets concerned. Competition may not be feasible where cost efficiency exceeds the value of competition, for example where demand and cost/technological conditions or the small size of the market serve as effective barriers to entry. However, the argument about economies of scale are often overstated, while the costs of the lack of competition are underestimated.

3. Monopolies may be justified in certain circumstances, for example: where a monopoly is needed for a certain period in order to give incentives to an investor to invest; where certain profitable parts of the industry subsidize other loss-making segments, although such subsidies will need to be transparent; or where cost efficiency outweighs the benefits of competition. They may also be justified on grounds of their strategic interest.

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* Annexed to the report by decision of the Working Group at its 7th (closing) meeting (see para. 12 above).

2. Regulation

4. In a competitive market, competition is the best regulator. However, in a monopoly situation, regulation is necessary in order to protect consumer welfare and to promote competition and the orderly and efficient functioning of the sector. Regulation thus serves as a substitute for competitive pressure.

5. An effective regulatory framework, in addition to protecting consumer welfare, can serve to provide financial stability and viability, as well as incentives for innovation and efficiency, to the regulated enterprise. Regulation can be undertaken by a government department, an independent regulator or an independent regulatory commission. In order to separate regulatory functions from policy-making functions and in order to have stable basic rules for regulation over time, an independent regulatory authority may be needed. It is important to determine first what needs to be regulated in the light of the objectives of regulatory policy and then to decide on the structure and location of the regulatory authority.

6. Forms of economic regulation include price regulation, rate of return regulation or negotiated contractual concessions. Price regulation is being used much more than rate of return regulation. Price regulation is less costly and less time-consuming, and provides a stronger incentive to efficiency, than rate of return regulation. However, it may be difficult to determine the adjustment for productivity gains in the price regulation formula over a five-year period (the normal period used) in unstable macroeconomic conditions. In the case of contractual concessions, some regulation or monitoring may still be needed, for example to monitor security and quality of service. Quality and output standards may be built into a contractual agreement, with penalty clauses for shortfalls, as well as specifications that consumers will pay only for the services rendered. Stability in the terms of a contractual concession is important for the market value of the enterprise concerned.

7. An independent regulatory authority is the solution that is most attractive to investors or potential investors. However, it may not be applicable in all countries, particularly where there is no tradition or culture of independent institutions, free of political interference. In such situations, creating regulatory bodies which are not truly independent can be misleading and may even be dangerous. There is also the additional risk of the regulatory authority being captured by the regulated enterprise. In view of this risk, it is particularly important that its procedures should be transparent and its decisions be made public. For the investor, minimization of risk is, perhaps, the most important criterion. This can be best achieved where there is a truly independent regulatory authority.

8. A number of lessons learned from the privatization of public utilities would indicate the need for:

- Establishing a clear regulatory framework for regulating the service in each sector with well-defined rules of the game for all the parties concerned (the State, the service provider and consumers);

- Establishing the regulatory framework and the regulatory authority before privatizing the public utility;

- Creating market structures to allow for maximum competition;

- Creating competent regulatory authorities and ensuring their independence from political interference;

- Rationalizing the structures for related industries, e.g. those belonging to the energy sector, in order to keep the number of regulatory bodies to a minimum.

3. Private development of infrastructure

9. The privatization or private development of infrastructure raises some important issues of its own because of the particular characteristics of infrastructure companies. Such companies enjoy monopoly or dominant market power and need to be regulated. They provide services which generally cannot be exported; thus, their prices are internally determined and they do not earn foreign exchange. Their services are traditionally provided by the State and affect large segments of the population, which means they have high visibility. They require substantial up-front investments with small initial revenue streams and long payback periods; because of the high risks associated with many projects, future returns are heavily discounted. These characteristics create a unique set of incentives and risks for the promoter of infrastructure privatization. There is a need to provide an adequate legal and economic environment. There may also be a need to share certain risks between the Government and the private investor in an appropriate manner. Such risks may include business (e.g. deficient demand for the services), financial (e.g. exchange rate fluctuations), political (e.g. risk relating to expropriation of the enterprise or repatriation of capital), legal (e.g. risk relating to unsatisfactory dispute resolution) and other risks (e.g. environmental liability).

10. The privatization of infrastructure may involve the granting of an operation and maintenance contract, sale of the infrastructure, sale of the infrastructure company through public offering of shares or to a private investor or sale of development rights through build-operate-transfer schemes. Restructuring, together with corporatization, can help to prepare an infrastructure company for sale and to enhance its sales value, although such exercises have proved to be difficult and time-consuming to implement.

11. Governments may have to assume some of the risks, for example exchange rate risks, and offer incentives to the private investor by providing a long-term contractual concession and, where necessary, monopoly power during the period of the concession, in order to attract financing for infrastructure development. Alternatively, Governments may choose a method whereby the risks are assumed by the private investor and are reflected in the tariffs. If subsidies are to be granted, they should be provided in a transparent manner. Loan guarantees from multilateral agencies or the sponsoring Government may also be necessary in order to obtain the necessary financing. Although infrastructure development is costly, the cost of under-supply of a vital service like electricity, when translated into macroeconomic constraints to growth, may be much higher.

12. Regulation will be necessary both to protect consumer welfare and to provide a guarantee and financial stability to the private sector developer-operator. Such regulation may be provided through a negotiated contractual concession. This solution may commend itself where the regulatory capacity is inadequate or is subject to political interference. In such a situation, a contractual concession, by covering the life cycle of the project, may be more attractive to the private sector developer-operator than price or rate of return regulation. Such a contractual agreement between shareholders and the Government can stipulate allowable rates of return; it can provide for renegotiations where the stipulated rates of return are not sufficient, as well as for penalties, for example when there are quality shortfalls. However, some monitoring by the Government or some appropriate authority will still be necessary in order to ensure compliance with the agreement, including in respect of security and quality of service.

13. Competitive bidding is necessary for the award of concessions. For this purpose, pre-selection of bidders is essential. There may be a role for the donor community to reimburse partially the pre-selected bidders for their bidding costs and to co-finance the cost of feasibility studies in order to enhance the participation of bidders in developing countries.

B. SOCIAL IMPACT AND SOCIALLY RELATED SUPPORT MEASURES

1. Social considerations and privatization strategy

(a) Social objectives

14. The relative importance attached by Governments in their privatization programmes to social and economic objectives varies, reflecting different country situations and priorities. In some countries, privatization is seen as a tool to improve general economic welfare or, as in the case of mass privatization, as a method of sharing national wealth. However, the objective of economic efficiency is of primary concern to all countries.

15. Whatever the balance between the various objectives of privatization, social considerations are an essential component of the process of privatization. Social considerations should form an integral part of the design and the implementation of privatization policies and programmes, and they should be incorporated into the strategy of privatization as early as possible, in an explicit manner, and not as an "afterthought", as is sometimes the case. There is also a need for early consultations with employees and trade union representatives, and for the communication of pertinent information, to facilitate the acceptance of privatization.

16. Some particular objectives need to be emphasized. These include: to promote employment; to extend the benefits of growth to all sections of the population; to protect consumer welfare; to generate funds for social safety net measures; to widen and deepen share ownership; and to enhance the participation of workers in the activities and ownership of their companies.

17. The importance of social objectives stems from the fundamental changes involved in privatization. A fundamental change is the redefinition of the role of the State, in both economic and social matters. Of particular importance are the expectations and the perceptions of the public at large concerning the role of the State as the provider of services and goods

traditionally produced in the public sector. Furthermore, in assessing the social impact of privatization, a review has to be made of the effects on all those who are affected by the process, namely workers and managers of public enterprises, technocrats, suppliers of services or goods to public enterprises and consumers. The effects take place in a dynamic context; the analysis will therefore need to take this into account.

18. The diversity of country situations has to be recognized, as well as the special case of the countries in transition. In such countries the social balance sheet needs to be seen in the context of the transformation of the society as a whole from a "command and control economy" to a market economy.

(b) Social aspects of strategy design

19. The social objectives and the dynamics of the privatization process will need to be so reflected in the privatization strategy as to maximize the chances of success. In this regard, particular attention will need to be given, as part of a consensus-building process, to the promotion of transparency in the privatization process; to an effective public campaign in order to promote the value of privatization and to increase public awareness of its objectives and merits, including the benefits of competition and of economic efficiency in the economy; to the promotion of "popular capitalism" without impairing effective corporate governance; to the adoption of measures to protect consumer welfare against monopoly power; to an effective campaign of explanation in order to promote understanding of the extent of, and the need for, foreign participation in the privatization process; to a monitoring procedure to monitor compliance with commitments made, for example concerning investment or employment plans, and the results of privatization, including efficiency gains achieved and their translation into tangible benefits for consumers and the economy; and to compensation measures for retrenched workers, as well as services and mechanisms to improve skills, encourage labour mobility and facilitate job creation through enterprise development.

(c) Issues in implementation

20. In order to maintain the credibility and the sustainability of the process, a number of factors can play a critical role. These include:

- Early programmes of information and explanation targeted at both the general public and for specific audiences, i.e. workers, managers, investors and consumers. These programmes should also attempt to elicit reactions from, and identify the concerns of, vulnerable groups in the implementation process;

- Early consultations, and exchange of information, with the workers, including through their trade unions representatives, and continuation of these consultations on a regular basis throughout the privatization process;

- Ensuring transparency and accountability, which are particularly important to secure the confidence of shareholders and investors for the promotion of "popular capitalism"; and to assure the public that State assets are being transferred in the most beneficial manner;

- Management of the privatization process by a special agency endowed with a clear mandate, sufficient resources and proper accountability procedures, so as to instil confidence in the whole process.

21. In the design or implementation of the privatization strategy, there are often conflicts of objectives that need to be resolved. These often concern the need to reconcile efficiency and social objectives (for example distributional ones); to harmonize short- and long-term considerations, for example by ensuring that compensation measures to workers are not so generous as to set a bad precedent for the future or to provide disincentives to potential buyers; and to harmonize the benefits of a particular social group (public sector employees) with the wider interests of the society as a whole.

(d) New role of the State

22. An important aspect of privatization is the new role of the State in social matters, including the provision of social services previously provided by the privatized enterprises, and the protection of consumer welfare through regulation, in the case of monopolies. The State may also have to subsidize essential services for certain social groups or disadvantaged regions. The subsidies need to be transparent in nature.

23. The changing roles of the public and private sectors can also be seen in the provision of public and social services. Contracting out of such services may be justified because of (1) budgetary constraints, and the need to achieve savings; (2) more cost-effective and reliable private sector suppliers. Due attention should be paid to maintaining quality, health and safety standards and workers' rights. Under the pressure of competition, public sector suppliers can sometimes successfully compete with private sector competitors. In this regard, care should be taken to ensure that government agency bids include all costs and tax elements in order to create a level playing field for both public and private bidders. In some cases, the former have won back contracts previously awarded to the latter.

24. The public needs to be educated about the new role of the State in both its social and economic aspects. The State itself, in order to address effectively the social aspects of privatization in the current situation, must make the most effective use of market forces.

2. Social impact: some selected topics

(a) Social balance sheet

25. The social balance sheet of privatization will need to address its effects on employment and on its conditions; its effects on income and wealth distribution; the impacts, through its effect on growth, on the provision of social services in the long term; and the social costs and benefits of the privatization of public utilities.

26. Because of the complexity of the subject and the methodological difficulties involved the social balance sheet of privatization has not been well documented. One of the major methodological difficulties is to isolate the effects of privatization, from those caused by other parallel or complementary policy measures, and from those due to macroeconomic instability in the post-privatization phase.

(b) Employment

(i) Job security and labour retrenchment

27. Retrenchment may be due to surplus labour rather than to privatization. Such retrenchment can be substantial and is often a condition set by private investors. Where speed of the sale is essential, the State will need to negotiate with the trade unions the benefits to be provided. Where speed is not the major criterion, and where political or social difficulties are important constraints, the State may phase out the labour restructuring, and its impact, over an extended period, while preparing the enterprise through commercialization and corporatization for sale. There are also cases where the State is able to negotiate some agreement protecting employment for a given period of time after privatization.

28. For workers of public enterprises, privatization may be perceived as a betrayal by the Government, since they had contractually accepted to make a career in the public sector, often trading job security for lower salaries than in the private sector. Faced with the prospect of job losses, they will fiercely resist privatization, with the support of their trade unions, which are often among the most powerful unions in many countries.

29. On the other hand, as employees of the public sector have traditionally benefited from job security, and have been able in some cases to negotiate relatively favourable terms of employment, they may be seen as a privileged section of the society. The defence of their economic and social interests may also be perceived as contributing to the rigidities of the labour markets. While trade unions are aware of these perceptions, and are addressing the social impact of privatization, as well as more general employment issues, they are bound to insist, in contractual discussions, that the solution to these problems does not lie in the erosion of the acquired rights of the workers. At the same time, it has to be recognized that, in many countries, there are workers in the public sector, for example manual workers or blue collars, who are far from being among the privileged workers in society.

(ii) Conditions of employment

30. Changes in conditions of employment can take many forms and do not necessarily result in a systematic deterioration or an improvement of conditions of work, particularly concerning income earned and other social benefits. Since the terms of employment tend to be aligned to market conditions, wherever a comparison is possible and meaningful, changes will depend a great deal on the specific situation of the enterprise, and how it is affected by the general situation and evolution of the economy. At the same time, the social objectives of the Government and the modalities of privatization will also influence the terms and conditions of employment in the privatized enterprises. Because of the priority given by Governments to maintaining employment, and to avoiding social turmoil, there is often a tendency to maintain the status quo for employment and conditions of work for a limited period of time in the post-privatization period.

31. The terms of employment can be affected significantly in the case of management and/or employee buy-outs. In these situations, managers and employees who feel that they have more say in the running of the enterprises may accept short-term pay cuts and reduction of benefits and/or deferred payments in the form of share options.

(iii) Labour relations

32. Labour relations can be significantly affected by privatization. For one thing, the staff unions may have to change their national affiliations. Trade union attitudes to privatization may be influenced by fears of membership losses and concerns about their new status in the private sector which may be less favourable than in the public sector, particularly relating to the rights of trade unions in the workplace.

33. Furthermore, a change in affiliation may create a new situation for collective bargaining, if an important part of negotiations of collective agreements is undertaken at the industrial branch or national level. In some countries, however, the negotiations on wages and terms of employment take place at the enterprise level, and not much change occurs in that respect in terms of bargaining with the management after the privatization. But even in these situations, in the post-privatization phase, the trade unions lose their capacity to extract bargaining concessions through their political influence on Governments, politicians and technocrats.

34. More generally, in the post-privatization phase, dispute resolution is addressed more through mutually agreed mediation or arbitration, or labour tribunals, than through the political establishment. One of the advantages of privatization for trade unions is that, in some countries, their activities and mandates cease to be constrained by labour legislation on the limitations of collective bargaining and restrictions on the right to strike in enterprises delivering what are considered as essential public goods and services. On the other hand, the fragmentation of large public enterprises into smaller privatized units may lead to a more decentralized collective bargaining, which may result in weaker pressure from the unions.

35. Participation of workers in the ownership of the enterprises, through the promotion of incentives to acquire shares, or through employee share ownership plans, increases the participation of the workers in the benefits of privatization and may increase their acceptance of the process. The level of employee share ownership, usually around 10 per cent, does not necessarily mean a greater say or involvement in the running of the company or an improvement in the conditions of work. In some cases, however, worker participation in the management of companies has increased.

(c) Impact on consumers

36. The impact on consumers is an important element of the social balance sheet of privatization. Consumer welfare is affected by privatization in terms of prices, access to a secure supply, and the quality of the goods and services provided by the enterprises.

37. A few detailed studies and some evidence point to a beneficial impact of privatization for the consumers. Also as a matter of principle, an appropriate regulatory framework and an enhanced role of competition, wherever it is possible, should improve consumer welfare after privatization. In practice, however, examples show that the impact is less clear-cut and may depend largely on the modalities of privatization themselves.

38. In the case of a privatized monopoly, and where the State assumes an important responsibility in regulation to avoid the abuse of monopoly power, the issue of users' charges is of particular importance. It affects directly the access of the poorest parts of the population to the goods and services, influences the pattern of consumption, and is of key importance to generating resources that will eventually determine directly the future investments and supply capacity.

39. In this context, if an important objective of social policy is to facilitate the access of specific target groups to the supply of utilities, it has to be done in an explicit manner, and through a clear agreement between the Government and the privatized, or corporatized public enterprise. Direct subsidies granted in these conditions are a legitimate matter of public policy. Furthermore, a valuable general rule is to make as explicit as possible the subsidies involved and to specify accurately the cost involved for the Government and the society as whole. In particular, cross-subsidization should be made as transparent as possible.

(d) Income and wealth distribution

40. Privatization tends to widen the ownership of productive assets, through the public offering of shares. Recent privatizations in many countries have greatly improved "popular capitalism". Furthermore the participation of workers and managers in shareholding has also tended to increase the share of these social groups in the ownership of their enterprises.

41. However, it is not clear whether privatization has in all cases really improved income and wealth distribution. In order to improve employees' access to credit, some countries provide interest-free loans, up to a year's salary, to enable employees to purchase shares. This can help to ease the financial obstacle to greater employee participation in the process of privatization.

3. Socially related support measures: some selected issues

(a) The economic and social environment and policies

42. Socially related support measures are needed to help cushion the negative social impact of privatization. Their design and implementation are the prime responsibility of the Government, in consultation with all those who are involved in the privatization process, i.e. employers, managers, workers and their representatives.

43. These measures are part of the social safety net to assist those who have to undergo a difficult transition linked to economic and social restructuring, particularly in the loss of employment. In that context, their effectiveness has to be assessed both in relation to their capacity to mitigate the cost of transitional adjustments, and to help minimize the time and the difficulties of the transition. Ultimately, therefore, a key element of the effectiveness of these social measures will be the ability of the economic reforms, including privatization, to meet successfully its objectives of growth and employment. In addition, specific growth-oriented and job-creating programmes may be useful to facilitate the transition, particularly where unemployment is a serious social issue.

44. The social costs of privatization are affected by the economic environment in which it is carried out. Countries which have benefited from a favourable economic environment, at the national or regional level, could implement more easily their privatization programmes and minimize the related social costs.

45. The financing of socially related support measures is an important aspect. It raises the issue of the use of the proceeds of privatization, and in particular the extent to which they should be used for that purpose. In addition to the proceeds, Governments have used a number of sources to finance the social measures, notably treasury or budgetary funds, public borrowing or loans provided by international financial institutions. Private funds are also part of the pool of resources especially in training, or retraining, in the privatized enterprises.

(b) Social provisions

(i) Contractual protection of employment

46. Some Governments have found it necessary to issue guidelines or impose conditions that employees of the privatized enterprise should not lose on their conditions of employment, or should at least be afforded a choice between the current conditions and new ones (which may involve a trade-off between income and job security). In other situations, the employment issue is negotiated with the investors as part of the privatization of the enterprise.

47. For the Government, and the new owner, there is the issue of reconciling the need to negotiate with labour the maintenance of industrial peace with the objective of putting the enterprise on a sound competitive basis, through labour restructuring and increased productivity. In this context, a balance has to be struck between the concern to guarantee employment through contractual arrangements and the need to ensure the viability of the enterprise which is an essential part of job security.

(ii) Socially related support measures for labour retrenchment

48. Social measures to assist directly in labour retrenchment are an important component of privatization programmes. They comprise measures which are designed and implemented at the enterprise, sectoral and national levels. They include:

- Special measures of transfers and staff relocation (including incentives to promote staff mobility);
- Redundancy or severance payments;
- Voluntary early retirement schemes;
- Training, retraining and vocational training;
- Assistance to entrepreneurial initiatives.

49. In addition, measures to promote growth or employment at the national level can help the affected workers in the transition. Of particular interest are fiscal measures to benefit enterprises recruiting new personnel and the promotion of public works programmes.

(iii) Training and retraining for labour mobility

50. Training plays an important role, not only to assist workers in facing the immediate professional demands resulting from privatization and the need for mobility, but also more generally to acquire the skills and the flexibility needed in a more competitive economic environment.

51. Training and vocational training have to be designed, negotiated and implemented with all the social partners involved in privatization, i.e. the employers, managers, workers and the relevant national and international cooperating agencies.

(iv) Promotion of entrepreneurship

52. In many countries, the promotion of entrepreneurship has proved to be of help in redeploying excess personnel. While the number of employees affected remains relatively limited, there is scope for more expansion in this area. Improvement can be made in the assistance to financing for start-ups, technological upgrading, marketing, and more generally in strengthening the institutional framework for assistance to SMEs (information, advisory services, and training). Government procurement can also play an important role.

53. Of particular importance is the role of the Government in creating an enabling environment for the promotion of entrepreneurship, through the legal and administrative framework and appropriate regulations to promote competition.

(c) Job-creation measures

(i) Specific programmes for job-creation

54. Governments have adopted a series of measures or programmes that are directly geared to job-creation. These include:

- Public works programmes, focused on improving public infrastructure and facilities, at the municipal, regional and national level;
- Arrangements to facilitate more flexible working schedules at the enterprise level;
- Programmes to promote the creation of employment, at the municipal and local levels, in the area of social work targeted to specific groups (e.g. the families, elderly).

55. The financing of these programmes is often limited by budgetary constraints and can be facilitated through co-financing from municipal and regional authorities, public or private enterprises and public borrowing.

(ii) Private sector development

56. Measures to support enterprise development, and notably private sector development, are particulary important in the panoply of measures to create employment and facilitate the transition for those who lose their employment. Indeed, in many countries the creation of jobs came mainly from a reinvigorated private sector, rather than from the public enterprises (being privatized or not). More specifically, the greatest sources of employment creation were in micro, small- or medium-sized enterprises.

57. The promotion of SMEs can contribute to the success of privatization by providing new job opportunities, and also by strengthening the commercial and industrial environment in which the newly privatized enterprises are to operate.

58. Private sector development can be supported through various measures such as:

- Awareness campaigns;
- Measures to facilitate funding from international financial institutions;
- Specific legislation and regulations to improve access to credits for micro-enterprises.

(iii) The role of the informal sector

59. Experience has shown that the informal sector can assist in absorbing labour that is not employed in the traditional activities, and in fostering the entrepreneurial initiatives of those who cannot have access to the normal sources of credit. The informal sector is an important reality in many developing countries without which the levels of unemployment would have led to social explosions. A number of community-based and non-governmental organizations are assisting non-creditworthy individuals with loan finance to promote productive activities and help in working capital or to acquire small equipment. The rate of reimbursement has proved to compare very well with traditional banking.

60. Entrepreneurs in the informal sector can sometimes compete successfully with established businesses in the formal sector. A major challenge for Governments is to find ways and means to help successful businesses in the informal sector to graduate to the formal sector, thus contributing to more open competition and greater tax revenues to the State.

Annex II

PROVISIONAL AGENDA FOR THE FOURTH SESSION OF THE AD HOC WORKING GROUP*

1. Election of officers

2. Adoption of the agenda and organization of work

3. Consideration of the country presentations in the light of a cross-country review by the secretariat on the design, implementation and results of the privatization programmes 1/

4. Elaboration of basic elements for consideration in formulating privatization programmes and plans

5. Other business

6. Adoption of the report of the Ad Hoc Working Group to the Board.

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* As approved by the Ad Hoc Working Group at its 7th (closing) meeting, on 3 December 1993.

1/ It is understood that this review will also treat the issue of the privatization of pension funds.

Annex III

CHECKLIST OF DOCUMENTS SUBMITTED TO THE THIRD SESSION OF THE AD HOC WORKING GROUP

Symbol	Title	Languages
TD/B/WG.3/7/Rev.1	Design, implementation and results of privatization programmes: a cross-country analysis of national experiences Report by the UNCTAD secretariat	A/C/E/F/R/S
TD/B/WG.3/10	Provisional agenda and annotations to the provisional agenda Note by the UNCTAD secretariat	A/C/E/F/R/S
TD/B/WG.3/11	In-depth consideration of: (i) Competition and the regulation of privatized monopolies (ii) Social impact and socially related support measures Issues paper by the UNCTAD secretariat	A/C/E/F/R/S
UNCTAD/DSD/Misc.8/Rev.1	Directory of national focal points dealing with privatization - Update Prepared by the UNCTAD secretariat	English
UNCTAD/DSD/Misc.8/Rev.1 /Add.1	Directory of national focal points dealing with privatization - Update Prepared by the UNCTAD secretariat	English
UNCTAD/DSD/Misc.11	Public enterprise restructuring and privatization - A survey of recent literature Prepared by the UNCTAD secretariat	English

Country presentations submitted by:

TD/B/WG.3/Misc.5/Add.1	Colombia	English/Spanish
TD/B/WG.3/Misc.14/Add.1	Netherlands	English
TD/B/WG.3/Misc.35	Sweden	English
TD/B/WG.3/Misc.37	Slovakia	English
TD/B/WG.3/Misc.38	Canada	English
TD/B/WG.3/Misc.39	Privatization and the environment	English

Annex IV

MEMBERSHIP AND ATTENDANCE*

1. The following States members of UNCTAD, members of the Ad Hoc Working Group, were represented at the session:

Algeria
Argentina
Belgium
China
Colombia
Côte d'Ivoire
Czech Republic
Denmark
Egypt
Finland
France
Germany
Greece
Hungary
Indonesia
Iraq
Italy
Jamaica
Libyan Arab Jamahiriya
Malaysia
Mexico
Morocco
Myanmar
Netherlands
Nigeria
Norway
Poland
Portugal
Republic of Korea
Romania
Russian Federation
Senegal
Slovakia
Sri Lanka
Switzerland
Tunisia
Turkey
United Kingdom of Great Britain and Northern Ireland
United States of America
Zambia
Zimbabwe

2. The following other States members of UNCTAD, not members of the Ad Hoc Working Group, were represented as observers at the session:

Austria
Bolivia
Ecuador
Ethiopia
Gabon
Guatemala
India
Ireland
Jordan
Madagascar
Malawi
Malta
Nepal
Oman
Panama
Philippines
Qatar
Singapore
Spain
Thailand
United Republic of Tanzania
Venezuela

3. The Economic Commission for Europe was represented at the session.

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* For the list of participants, see TD/B/WG.3/INF.3.

4. The following specialized and related agencies were represented at the session:

International Labour Organisation
World Health Organization
World Bank
International Monetary Fund
United Nations Industrial Development Organization

The General Agreement on Tariffs and Trade was also represented at the session.

5. The following intergovernmental organizations were represented at the session:

European Community
Organisation for Economic Cooperation and Development
Organization of African Unity

6. The following non-governmental organizations were represented at the session:

General Category

International Chamber of Commerce
International Federation of Business and Professional Women
International Road Transport Union
World Assembly of Small and Medium Enterprises
World Confederation of Labour
World Federation of United Nations Associations

Special Category

Public Services International

7. The following panellists participated in the session:

Mr. Jorge Botero, Fundación Tierra Nueva
M. Lucas Danho, Côte d'Ivoire
M. Bechir Essid, Tunisie
Mr. Pierre Guislain, World Bank
Mr. Rolph van der Hoeven, International Labour Office
Mr. Tissa J.M. Jayasinghe, Sri Lanka
Mr. Brendan Martin, International Confederation of Free Trade Unions
Ms. Khamarzan Ahmed Meah, Malaysia
Mr. Zoltan Roman, Hungarian Small Business Association
H.E. Mr. Juan Carlos Sanchez Arnau, Argentina
Mr. Andrzej Szablewski, Poland
Mr. Adrian van der Ven, Netherlands
Mr. James A. Waddell, United States of America

Annex V

PANELLISTS PARTICIPATING IN THE THIRD SESSION OF THE AD HOC WORKING GROUP

A. **Panel on competition and regulation**

Amb. Dr. Juan Carlos Sanchez Arnau
Chief of Advisory Staff,
Ministry of the Economy
Buenos Aires
Argentina

M. Lucas Danho
Vice-Président
Comité de privatisation et
de restructuration du secteur parapublic
Coordonateur de la Cellule Technique
Cabinet du Premier Ministre
Abidjan
Côte d'Ivoire

Ms. Khamarzan Ahmed Meah
Economic Planning Unit
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Malaysia

Mr. Andrzej Szablewski
Antimonopoly Office
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Ministry of Finance
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Postbus 20201
2500 EE Den Haag
Netherlands

Mr. James A. Waddell
Executive Director
International Privatization Group
Price Waterhouse
1801 K Street N.W.
Washington D.C. 20006
USA

B. Panel on social support measures

Hungary

Dr Zoltan Roman
President
Hungarian Small
Business Association
1021 Szeher UT 7
Budapest

Sri Lanka

Mr. Tissa J.M. Jayasinghe
Director
Commercialization Division
Ministry of Finance
Room No. 55, Ground Floor
Galle Face Secretariat

Tunisia

M. Bechir Essid
Directeur chargé de la Privatization
Direction des entreprises publiques
Premier Ministère

World Bank

Mr. Pierre Guislain
Senior Private Sector Development Specialist
World Bank
Washington

ILO

Mr. Rolph van der Hoeven
Project Manager
Interdepartmental Project on Employment
and Structural Adjustment
International Labour Office
4, route des Morillons
1211 Geneva 22

ICFTU/PSI

Mr. Brendan Martin
Director
Public World
5-11 Worship Street
London EC2A 2BH
UK

Panel on social support measures

Acción Internacional

Mr. Jorge Botero
Fundación Tierra Nueva
Calle 92, 7-30
Bogota, Colombia

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